

HB 486 is based upon an interim committee bill, SB 110, from the 2007 legislative session that was a consensus bill developed and supported by the Realtors, Builders, Counties, Cities, Smart Growth, Planners, Surveyors, and other groups. This bill is simpler and more focused than the 2007 version for the bill and solves some new problems that have arisen between 2007 and 2009 sessions.

HB 486 was supported in the House Local Government Committee by Realtors, Builders, Counties, Smart Growth, and Planners groups as well as individual cities and counties.

The intent of this bill is to clean up and modernize zoning and subdivision statutes. Many provisions of this bill will help to create a more predictable subdivision and development process.

Section 1 – This section just clarifies how the condominium exemption to subdivision review is filed with the local governing body.

Sections 2 and 7 – These sections modernize the zoning statutes by changing the term “freeholder” to “real property owners.” Section 2 also provides landowners with more certainty by making the timeframe in which a challenge may be brought against the creation of a zoning district to 60 days – SB 110 in 2007 had proposed changing this to 30 days but the development community had asked that it be increased to 60 days. This does not change the zoning protest provisions nor does it change the fact that zoning can be amended in the future.

Section 3 – This section clarifies who can sit on a planning and zoning commission including clarifying what to do if there is only one zoning district in a county.

Section 4 – This section cleans up the problem that has arisen where a citizen initiated zoning district has been initiated, but where the county has not been able to agree on the regulations or boundaries for the district. This section allows the county to void that unfinished zoning district.

Section 5 – This section helps to modernize the county zoning statutes by allowing zoning to be flexible and based on local needs and conditions.

Sections 6 and 8 – These sections help to modernize the zoning statutes by replacing outdated and overly restrictive zoning criteria and guidelines from the 1920s and 30s with more flexible guidelines that are based primarily on public health and safety and the ability to provide future development with infrastructure and services.

Section 9 – This section makes it clear that the aggregation of lots, or combining of lots to create fewer lots, is not a subdivision.

Sections 10 and 16 - These sections require that local governments establish a time limit of 30 working days in their subdivision regulations within which a written decision on a subdivision application must be provided to the applicant.

Section 11 – This section makes it clear that hearings are not required for variances on first minor subdivisions, but are required for other subdivisions.

Sections 12 and 15 – These sections make it clear that a governing body may require a percentage of improvements or specific types of improvements necessary to protect public health and safety to be completed before allowing bonding for the rest of the improvements and before issuing a final plat approval.

Section 13 – This section makes it clear that subdivision applications must show easements within and to the proposed subdivision for the location and installation of planned utilities. This section also eliminates a streamline subdivision review process that is unused and conflicts with the streamline subdivision review under 76-3-616.

Section 14 – This section makes it clear that a governing body may not hold a public hearing or a subsequent public hearing for first minor subdivisions.

Section 17 – This section ties the timeframe in which a challenge may be brought against a subdivision decision to the point when the written decision is given to the applicant.

Section 18 – This section repeals 76-3-210 which is now unnecessary because there was a streamline subdivision review process created under 76-3-616 in 2007.

Section 19 – This section makes the bill effective upon passage and approval.

-Prepared by Tim Davis with the Montana Smart Growth Coalition